

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/22/2018

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ENRIQUE MARTE,

Plaintiff,

- against -

NANCY A. BERRYHILL, Acting  
Commissioner, Social Security  
Administration,

Defendant.  
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17-CV-3567 (VSB) (JLC)

**ORDER**

VERNON S. BRODERICK, United States District Judge:

Plaintiff Enrique Marte brings this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking judicial review of a final decision of Defendant the Acting Commissioner of Social Security (the “Acting Commissioner”) denying his application for supplemental security income. (Doc. 1.) On November 17, 2017, Plaintiff moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, seeking an order reversing the Acting Commissioner’s determination or, in the alternative, remanding for further proceedings. (Docs. 11, 12.) On February 2, 2018, Defendant cross-moved for judgment on the pleadings, seeking affirmance of her final decision. (Doc. 16.) I referred this case to Magistrate Judge James L. Cott on July 21, 2017 for a report and recommendation on the cross-motions. (Doc. 8.) Judge Cott issued his Report and Recommendation on June 14, 2018 (the “Report and Recommendation” or “R&R”). (Doc. 18.) Neither party filed an objection.

Before me is Judge Cott’s unchallenged Report and Recommendation, which recommends that the case be remanded for further analysis. Judge Cott’s R&R is thorough and

detailed, and I accept its findings and recommendations, and direct that this case be remanded consistent with the findings in the Report and Recommendation.

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within 14 days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or any portion thereof, a district court reviews the report and recommendation for clear error. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

Here, the Report and Recommendation was filed on June 14, 2018. Although the Report and Recommendation explicitly provided that "the parties have fourteen (14) days. . . from service of this Report and Recommendation to file any objections," (R&R 44), neither party filed an objection. I therefore reviewed Judge Cott's thorough and well-reasoned Report and Recommendation for clear error and, after careful review of the record, found none. Accordingly, I adopt the Report and Recommendation in its entirety. Plaintiff's motion for judgment on the pleadings, (Doc. 11), is granted in part, Defendant's cross-motion for judgment on the pleadings, (Doc. 16), is denied, and this case is remanded pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the Report and Recommendation.

The Clerk's Office is respectfully directed to terminate the motions at Docs. 11 and 16,

and to enter judgment accordingly and close the case.

SO ORDERED.

Dated: October 22, 2018

New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive style with a large, stylized "V" and "B".

Vernon S. Broderick

United States District Judge